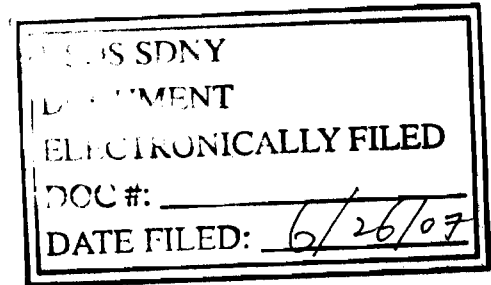


JUN 25 2007

**THE CITY OF NEW YORK
LAW DEPARTMENT**100 CHURCH STREET
NEW YORK, NY 10007**MICHAEL A. CARDOZO**
Corporation Counsel**JOHN H. GRAZIADEI**
Senior Counsel
Telephone: (212) 442-3551
Facsimile: (212) 788-9776

June 21, 2007

VIA ECF AND FACSIMILEHonorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007Re: *Zhao v. City of New York, et al.*, 07 CV 3636 (LAK)

- MEMO ENDORSED

Your Honor:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant City of New York.¹ I write to respectfully request that Your Honor: (a) "So Order" the enclosed subpoena for the criminal records in the Federal Bureau of Investigations file, and (b) grant defendant an enlargement of time until thirty days after this office obtains the documents necessary to respond to the complaint. Plaintiff's counsel does not object to this request. Defendant has made one previous request for an enlargement of time to respond to the complaint.²

I regret that this application is necessary but this office has not yet received the District Attorney's office's litigation files, the criminal court files, the Police Department's investigative files, or the criminal records in the Federal Bureau of Investigations files. These sealed records

¹ Upon information and belief, plaintiff still has not served the individually-named police officer defendants Ng and Milan with process in this case. Without appearing or making any representations on their behalf, it is respectfully requested that, when and if they are served, the same extension be granted to them in order to ensure that their defenses are not jeopardized while representation decisions are being made.

² Although the Court endorsed defendant's previous application for an enlargement on May 31, 2007, it granted an enlargement until June 22, 2007 and not the sixty-day enlargement requested by defendant and consented to by plaintiff. Using the \$ 160.50 unsealing release received from plaintiff on May 30, 2007, this office expedited requests for the police department documents and investigative files on the same day. Pursuant to established procedures, this office currently expects to obtain those documents by June 29, 2007. Requests for the District Attorney and Criminal Court files were submitted by this office on June 14, 2007 and, pursuant to established procedures, this office currently expects access to those documents by July 14, 2007.

are essential for this office to respond to the complaint in accordance with Rule 11 of the Federal Rules of Civil Procedure and this office has been working diligently to obtain them as expeditiously as possible.

Upon information and belief, plaintiff has not yet served either of the individually-named defendants and an enlargement of time will provide plaintiff with additional time to do so. Once these defendants are served, pursuant to Section 50-k of the New York General Municipal Law, the Corporation Counsel's office must determine, based upon a review of the facts of the case, whether it may represent them. The defendants must then decide whether they wish to be represented by the Corporation Counsel. *See Dunton v. County of Suffolk*, 729 F.2d 903 (2d Cir. 1984). If so, this office must obtain their written authorization. Only then may the defendants be interviewed in order to make decisions as to how to proceed in this case.

Accordingly, defendant respectfully requests that this Court grant defendant's application for an order enlarging defendant's time to respond to the complaint until thirty days after it receives the necessary documents. Thank you for your consideration of this request.

Respectfully submitted,




John H. Graziadei (JG 1333)
Assistant Corporation Counsel

cc: Eric W. Siegle, Esq.

MEMO-ENDORSED

*Denied except that
time is extended until 7/2/07.*

No further
discussion.

SO ORDERED 

LEWIS A. KAPLAN, USDJ

6/26/07